IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1004/2006
(Smt. Mena Kanwar Vs. State of Rajasthan & Ors.)

Date of Order : 26/03/2007

PRESENT
HON'BLE MR. JUSTICE H.R.PANWAR

Mr. I.R.Choudhary for the petitioner.
Mr. B.L.Tiwari, Dy. G.A. for the respondents.

BY THE COURT:-

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents to make payment of Group Insurance Claim of her husband Late Shri Anand Singh who died while in service.

I have heard learned counsel for the parties.

The facts and circumstances giving rise to the instant writ petition are that the petitioner's husband Late Shri Anand Singh was an employee of the respondents on the post of Helper in the Department of Public Health and Engineering Department (for short "PHED" hereinafter) and was posted at Bajju. While on duty, he died on 17.5.1997 by drowning while cleaning the Siphon at main canal. A report, Annex.1, dated 10.2.1999 to this effect was submitted by the Sub-Divisional Magistrate (South), Bikaner. The petitioner's husband was covered by Group

Insurance Policy issued by the respondents. On accidental death of her husband, the petitioner made a claim for payment of the Group Insurance benefit amounting to Rs. 2 lacs, which was forwarded by the Assistant Engineer, PHED, Bajju to the Deputy Director, State Insurance and Provident Fund Department, Bikaner, the respondent No.5 vide his letter dated 21.11.1997 Annex.2. The claim of the petitioner was returned with certain objections that the copies of the first information report, post-mortem report and death certificate etc. have not been enclosed with the claim and sought re-submission of the claim along with these documents. By order Annex.2, the Assistant Engineer, PHED, Sub-Division, Bajju categorically stated that on 17.5.1997, the petitioner's husband Anand Singh while cleaning the Siphon at main canal, died in accident by drowning. Thus, right from beginning, the respondent employer came with a case that the petitioner's husband died accidently on duty by drowning while he was cleaning siphon at main canal. Despite various communications by the respondents No. 4 and 5, the respondent No.6 failed to make payment of group insurance and therefore, a registered notice was served on the respondents deamnding the payment of group insurance policy. The petitoiner earlier filed a writ petition before this Court being S.B.Civil Writ Petition No. 4606/05. By order dated 4.8.2005, the writ petition filed by the petitioner was disposed of directing the petitioner to

file a fresh representation within 15 days from the date of order to the concerned authority and the concerned authority was directed to consider and decide the same either way in accordance with law within a period of two months therefrom and if it is found that the petitioner is entitled for any relief, then the same may be given to the petitioner. By order Annex.13 dated 20.12.2005, the respondents informed the petitioner that her claim has already been rejected vide Order No.6469 dated 19.10.2005. A copy of order dated 19.10.2005 has been annexed with Annex.13. The order dated 19.10.2005 states that the G.P.A. claim No.87/98-99 has already been rejected and therefore, the order of rejection stands maintained. Hence this petition.

A reply to the writ petition has been filed by the respondents stating therein that the entire matter was examined at threashold through various hands and during that process, since there were certain bonafide doubts relating to the cause of death, therefore, it was thought proper that the matter be got investigated from an independent agency and the matter was got investigated from an independent agency and from the investigation carried out by the independent agency, it transpired that in fact the deceased suffered the death not attributable to Govt. duty as stated by the petitioner, but he was addict of liquor and after having consumed the liquor went to

canal for taking bath then in the stage of intoxication he could not maintain his body balance and died because of drowning. On these premises, the claim has been denied by the respondents. A document Annex-R-1 investigation report is said to have been carried out by the investogator of the Group Accident Insurance.

It is contended by learned counsel for the petitioner that there is no authenticity of the document Annex.R-1. The investigator is an agent/ employee of the respondent State Insurance and Provident Fund Department dealing with group insurance and therefore, the respondents fell in error in denying the claim of group insurance on account of the accidental death of the husband of the petitioner.

Except the invstigation report Annex.R-1, there is nothing to show that the petitioner's husband died of natural death. On the contrary, it is admitted case of the respondents vide Annex.2 that the petitioner's husband Anand Singh who was posted at Sub-Division, Bajju of PHED, while performing the duty of cleaning siphon at main canal, accidently died due to drowning. This admitted fact cannot be retracted merely on the basis of a report submitted by an investigator who has been appointed by the respondents and it cannot be said that the report Annex.R-1 is a report of independent investigating agency. The independent agency is the police before whom the first information report was lodged stating the fact that the

deceased Govt. servant Anand Singh while performing his duty at main canal by cleaning the siphon accidently died due to drowning. The post mortem report, though has not been placed on record, also did not suggest that the deceased met with his natural death. This fact has not been disputed by the employer that at the relevant time, the deceased Anand Singh was performing the duty and was cleaning the siphon at main canal and in that process, accidently he drown. Viewed from any stand point, it cannot be said that the petitioner's husband was intoxicated and could not maintain his balance while taking bath. It is not the case of the respondent State that the deceased went to the canal for taking bath. The consistent stand of the respondent employer Assistant Engineer and Executive Engineer of the PHED is that the deceased was performing the official duty in cleaning the siphon at main canal and therefore, even if while performing the official duty and if there had been any imbalance of body, then also it is an accidental death and it cannot be said that it is a natural death or suicidal.

In the circumstances, therefore, in my view, the order denying benefit of group insurance claim to the petitioner on the death of her husband due to accident while performing the duty, is erroneous and the petitioner is entitled to receive the same.

In the result, the writ petition is allowed. The order

dated 19.10.2005 and the consequential order dated 20.12.2005 are set aside. The respondent No.5 is directed to make payment of group insurance claim of the deceased Govt. servant Anand Singh to the petitioner taking it that the deceased Govt. servant died in an accident and accordingly compute the benefits arising out of group insurance policy and pay the same to the petitioner. This exercise be done within four months from today. Stay petition also stands disposed of. No order as to costs.

(H.R.PANWAR),J.

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